

FORM NLRB-508
(3-21)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST LABOR ORGANIZATION
OR ITS AGENTS

DO NOT WRITE IN THIS SPACE	
Case 29-CB-293554	Date Filed 4/5/2022

INSTRUCTIONS: File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. LABOR ORGANIZATION OR ITS AGENTS AGAINST WHICH CHARGE IS BROUGHT			
a. Name 1199SEIU		b. Union Representative to contact George Gersham	
c. Address (Street, city, state, and ZIP code) 498 Seventh Ave. New York, NY 10018		d. Tel. No. 646-473-9200	e. Cell No.
		f. Fax No.	
		g. e-mail	
h. The above-named labor organization has engaged in and is engaging in unfair labor practices within the meaning of section 8(b) and (list subsections) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.			
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices) See attached sheet.			
3. Name of Employer Chinese-American Planning Council		4a. Tel. No. 212-219-8100	b. Cell No.
		c. Fax No.	
		d. e-mail	
5. Location of plant involved (street, city, state and ZIP code) 1 York Street New York, NY 10013		6. Employer representative to contact (b) (6), (b) (7)(C)	
7. Type of establishment (factory, mine, wholesaler, etc.) home care agency	8. Identify principal product or service home care services	9. Number of workers employed 1000+	
10. Full name of party filing charge (b) (6), (b) (7)(C)			
11. Address of party filing charge (street, city, state and ZIP code) (b) (6), (b) (7)(C)		11a. Tel. No.	b. Cell No. (b) (6), (b) (7)(C)
		c. Fax No.	
		d. e-mail	
12. DECLARATION I declare that I have read the above charge and that the statements (b) (6), (b) (7)(C) to the best of my knowledge and belief. (b) (6), (b) (7)(C)		Tel. No.	
(signature of representative or person making charge)		Cell No. (b) (6), (b) (7)(C)	
(Print/type name and title or office, if any)		Fax No.	
Address (b) (6), (b) (7)(C)		e-mail	
Date 3/27/22			

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.

2. Basis of the Charge

[illegible]

(1) failing to challenge the arbitrator's award issued on or about February 25, 2022, that did not provide any relief, financially or in preventing future violation of their rights, when the Union had forced them into mandatory class arbitration that effectively took away their right to assert claims under New York State labor laws that provided fair monetary compensation and deterrence through criminal liability, for arbitrary, discriminatory and incidious reasons, in violation of Section 8(b)(1)(A); and

(2) by engaging in conduct amounting to or had the effect of colluding with 42 homecare agencies/employers in the State of New York to evade monetary and criminal liabilities by these employers' unlawful conduct that violates New York State labor laws and other labor statutes for arbitrary, discriminatory and incidious reasons, in violation of Section 8(b)(1)(A).



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 29
Two Metro Tech Center
Suite 5100
Brooklyn, NY 11201-3838

Agency Website: www.nlr.gov
Telephone: (718)330-7713
Fax: (718)330-7579



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(b) (6), (b) (7)(C)
(b) (6), (b) (7)(C)
(b) (6), (b) (7)(C)

April 6, 2022

Re: 1199 SEIU (Chinese American Planning
Council)
Case 29-CB-293554

Dear (b) (6), (b) (7)(C):

The charge that you filed in this case on April 05, 2022 has been docketed as case number 29-CB-293554. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney BRENT E. CHILDERHOSE whose telephone number is (718)765-6187. If this Board agent is not available, you may contact Supervisory Attorney TARA O'ROURKE whose telephone number is (718)765-6213.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Correspondence: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, www.nlrb.gov. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlrb.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kathy Drew-King". The signature is fluid and cursive, with the first name "Kathy" being more prominent and the last name "Drew-King" following in a similar style.

KATHY DREW-KING
Regional Director



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 29
Two Metro Tech Center
Suite 5100
Brooklyn, NY 11201-3838

Agency Website: www.nlrb.gov
Telephone: (718)330-7713
Fax: (718)330-7579



Download
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(b) (6), (b) (7)(C)

Chinese-American Planning Council
1 York Street
New York, NY 10013

April 6, 2022

Re: 1199 SEIU (Chinese American Planning
Council)
Case 29-CB-293554

Dear (b) (6), (b) (7)(C)

Enclosed is a copy of a charge that has been filed in this case. Although this charge is not filed against you, it is necessary for us to obtain information from you to determine whether we have jurisdiction over this case. In the future we may also need to obtain evidence from you concerning the merits of the charge. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney BRENT E. CHILDERHOSE whose telephone number is (718)765-6187. If this Board agent is not available, you may contact Supervisory Attorney TARA O'ROURKE whose telephone number is (718)765-6213.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlrb.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

If, during the investigation of this matter, the Board agent asks for evidence, I strongly urge you or your representative to promptly present all evidence relevant to the investigation. In this way, the case may be fully investigated more quickly.

We will not honor requests to limit our use of position statements or evidence. Specifically, any material you submit may be introduced as evidence at a hearing before an administrative law judge regardless of claims of confidentiality. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Further, the Freedom of Information Act may require that we disclose position statements or evidence in closed cases upon request, unless an exemption applies, such as those protecting confidential financial information or personal privacy interests.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

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In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to

your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlrb.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kathy Drew-King", written in a cursive style.

KATHY DREW-KING
Regional Director

Enclosures

1. Copy of Charge
2. Commerce Questionnaire

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME	CASE NUMBER 29-CB-293554
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1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

2. TYPE OF ENTITY

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)

3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION OR FORMATION	B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES
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4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

7A. PRINCIPAL LOCATION:

7B. BRANCH LOCATIONS:

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. TOTAL:

B. AT THE ADDRESS INVOLVED IN THIS MATTER:

9. DURING THE MOST RECENT (Check the appropriate box): ☐ CALENDAR ☐ 12 MONTHS or ☐ FISCAL YEAR (FY DATES _____)

	YES	NO
A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value. \$ _____		
B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$ _____		
C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$ _____		
D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$ _____		
E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____		
F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____		
G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$ _____		
H. Gross Revenues from all sales or performance of services (Check the largest amount) <input type="checkbox"/> \$100,000 <input type="checkbox"/> \$250,000 <input type="checkbox"/> \$500,000 <input type="checkbox"/> \$1,000,000 or more If less than \$100,000, indicate amount.		
I. Did you begin operations within the last 12 months? If yes, specify date: _____		

10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group).

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME	TITLE	E-MAIL ADDRESS	TEL. NUMBER
------	-------	----------------	-------------

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)	SIGNATURE	E-MAIL ADDRESS	DATE
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PRIVACY ACT STATEMENT

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UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 29
Two Metro Tech Center
Suite 5100
Brooklyn, NY 11201-3838

Agency Website: www.nlr.gov
Telephone: (718)330-7713
Fax: (718)330-7579



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George Gersham
1199 SEIU
498 Seventh Avenue
New York, NY 10018

April 6, 2022

Re: 1199 SEIU (Chinese American Planning
Council)
Case 29-CB-293554

Dear Mr. Gersham:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney BRENT E. CHILDERHOSE whose telephone number is (718)765-6187. If this Board agent is not available, you may contact Supervisory Attorney TARA O'ROURKE whose telephone number is (718)765-6213.

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Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not

enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

We will not honor requests to limit our use of position statements or evidence. Specifically, any material you submit may be introduced as evidence at a hearing before an administrative law judge regardless of claims of confidentiality. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Further, the Freedom of Information Act may require that we disclose position statements or evidence in closed cases upon request, unless an exemption applies, such as those protecting confidential financial information or personal privacy interests.

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Very truly yours,

A handwritten signature in black ink, appearing to read "Kathy Drew-King", written in a cursive style.

KATHY DREW-KING
Regional Director

Enclosure: Copy of Charge

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

1199 SEIU (CHINESE AMERICAN PLANNING COUNCIL)

Charged Party

and

(b) (6), (b) (7)(C)

Charging Party

Case 29-CB-293554

AFFIDAVIT OF SERVICE OF CHARGE AGAINST LABOR ORGANIZATION

I, the undersigned employee of the National Labor Relations Board, state under oath that on April 6, 2022, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

George Gersham
1199 SEIU
498 Seventh Avenue
New York, NY 10018

April 6, 2022

Date

FREDA DEVONSHIRE, Designated
Agent of NLRB

Name

/S/ FREDA DEVONSHIRE

Signature

From: [Kirschner, Kenneth](#)
To: [Childerhose, Brent E.](#)
Subject: 1199SEIU (Chinese-American Planning Council Home Attendant Program, Inc.) - Case Nos. 29-CB-293554 and 29-CB-293575
Date: Tuesday, April 12, 2022 2:24:31 PM
Attachments: [NLRB Letter Re \(b\) \(6\), \(b\) \(7\)\(C\).pdf](#)
[NOA \(b\) \(6\), \(b\) \(7\)\(C\).pdf](#)
[NOA \(b\) \(6\), \(b\) \(7\)\(C\).pdf](#)

Dear Mr. Childerhose,

It was a pleasure speaking with you this morning.

As promised, attached is our Notices of Appearance in the above-captioned charges.

As discussed, I will send you some further information as to why these unfair labor practice charges against 1199 should be dismissed forthwith.

Best regards,

Ken

Kenneth Kirschner

Partner

Hogan Lovells US LLP
390 Madison Avenue
New York, NY 10017
Tel: [+1 212 918 3000](tel:+12129183000)
Direct: [+1 212 918 3260](tel:+12129183260)
Fax: [+1 212 918 3100](tel:+12129183100)
Email: kenneth.kirschner@hoganlovells.com
www.hoganlovells.com

If you would like to know more about how we are managing the impact of the COVID-19 pandemic on our firm then take a look at our brief [Q&A](#). If you would like to know more about how to handle the COVID-19 issues facing your business then take a look at our [information hub](#).

About Hogan Lovells

Hogan Lovells is an international legal practice that includes Hogan Lovells US LLP and Hogan Lovells International LLP. For more information, see www.hoganlovells.com.

CONFIDENTIALITY. This email and any attachments are confidential, except where the email states it can be disclosed; it may also be privileged. If received in error, please do not disclose the contents to anyone, but notify the sender by return

email and delete this email (and any attachments) from your system.



Hogan Lovells US LLP
390 Madison Avenue
New York, NY 10017
T +1 212 918 3000
F +1 212 918 3100
www.hoganlovells.com

April 12, 2022

VIA E-MAIL

Brent E. Childerhose, Esq.
Field Attorney
National Labor Relations Board
Region 29
Two Metro Tech Center
Suite 5100
Brooklyn, New York 11201

**Re: 1199SEIU (Chinese-American Planning Council Home Attendant Program, Inc.
Case Nos. 29-CB-293554
29-CB-293575**

Dear Mr. Childerhose:

We represent the Chinese-American Planning Council Home Attendant Program, Inc. ("CPC") in the above-captioned matters. As discussed, we will forward to you the relevant decisions and awards in prior pertinent cases which will show that these unfair labor practice charges are untimely.

Please direct any future correspondence to the undersigned.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kenneth Kirschner".

Kenneth Kirschner

Partner
kenneth.kirschner@hoganlovells.com
D 212.918.3260

Enclosures

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

(b) (6), (b) (7)(C)

Charging Party,

and

1199SEIU,

Charged Party.

CASE 29-CB-293554

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____

Chinese-American Planning Council Home Attendant Program, Inc.

IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☐ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: Kenneth Kirschner
MAILING ADDRESS: Hogan Lovells US LLP
390 Madison Avenue, New York, New York 10022
E-MAIL ADDRESS: kenneth.kirschner@hoganlovells.com
OFFICE TELEPHONE NUMBER: (212) 918-3260
CELL PHONE NUMBER: (917) 386-7414 FAX: (212) 918-3100
SIGNATURE: *Kenneth Kirschner*
(Please sign in ink)
DATE: April 12, 2022

¹ IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

(b) (6), (b) (7)(C)

Charging Party,

and

1199SEIU,

Charged Party.

CASE 29-CB-293575

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____

Chinese-American Planning Council Home Attendant Program, Inc.

IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☐ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: Kenneth Kirschner
MAILING ADDRESS: Hogan Lovells US LLP
390 Madison Avenue, New York, New York 10022
E-MAIL ADDRESS: kenneth.kirschner@hoganlovells.com
OFFICE TELEPHONE NUMBER: (212) 918-3260
CELL PHONE NUMBER: (917) 386-7414 FAX: (212) 918-3100
SIGNATURE: *Hogan Lovells*
Kenneth Kirschner
(Please sign in ink.)
DATE: April 12, 2022

¹ IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

NATIONAL LABOR RELATIONS BOARD
NOTICE OF APPEARANCE

1199SEIU UNITED HEALTHCARE WORKERS EAST,

Union,

and

CHINESE-AMERICAN PLANNING COUNCIL HOME ATTENDANT,

Employer.

CASE 29-CB-293554

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____

1199SEIU United Healthcare Workers East
IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☐ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: Laureve Blackstone

MAILING ADDRESS: Levy Ratner, P.C., 80 Eighth Avenue, 8th Floor, New York, NY 10011-7175

E-MAIL ADDRESS: lblackstone@levyratner.com

OFFICE TELEPHONE NUMBER: (212) 627-8100

CELL PHONE NUMBER: _____ FAX: (212) 627-8182

SIGNATURE: Laureve D. Blackstone

(Please sign in ink.)

DATE: April 20, 2022

¹ IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 29
Two Metro Tech Center
Suite 5100
Brooklyn, NY 11201-3838

Agency Website: www.nlrb.gov
Telephone: (718)330-7713
Fax: (718)330-7579

June 9, 2022

(b) (6), (b) (7)(C)

Re: 1199 SEIU (Chinese American Planning
Council)
Case 29-CB-293554

Dear (b) (6), (b) (7)(C):

We have carefully investigated and considered your charge that 1199SEIU United Healthcare Workers East (Union) has violated the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charge for the reasons discussed below.

Your charge alleges that the Union has failed and refused to represent you and other union members by not challenging the February 25, 2022 arbitrator's award for the Union's class-action grievance. Further, you allege the Union's handling of the class action grievance "had the effect of colluding with 42 homecare agencies/employers in the State of New York to evade monetary and criminal liabilities by these employers..." Contrary to what is alleged in your charge, there is insufficient evidence to establish that the Union has failed in its duty to represent you or other employees named in the charge.

Is well established that a Union, as the exclusive representative of bargaining unit employees, has the statutory duty to fairly represent their interests in the processing of grievances. See *Vaca v. Sipes*, 386 U.S. 171 (1967). A breach of this duty occurs when the Union's conduct is based upon arbitrary, invidious, or discriminatory considerations. At the same time, however, unions have broad discretionary power to settle or drop grievances for a multitude of reasons and the duty of fair representation "does not require that every possible option be exercised or that a grievant's case be advocated in a perfect manner." *Truck Drivers, Local Union No. 355*, 229 NLRB 1319, 1321(1977).

Here, the evidence shows that the Union processed a class-action grievance on behalf of approximately 120,000 home healthcare workers which resulted in an arbitrator issuing a decision on February 25, 2022. The arbitrator's decision establishes a fund of approximately \$32 million to pay the wage claims of the employees represented by the Union. Further, the arbitrator's decision establishes a formula to distribute the funds to employees who submit claims. While you have objected to the arbitrator's decision, claiming that it is arbitrary and discriminatory, the Union's assessment is that the decision is fair and reasonable and balances the various factors related to such a large class action. Contrary to what you have claimed, the

arbitrator's award does not arbitrarily distribute funds equally to all employees in the class, but rather compensates employees consistent with a formula that accounts for which employees had worked 24-hour shifts. While you disagree with the Union's assessment that the arbitrator's award is appropriate, there is insufficient evidence that the Union's actions are based on any unlawful considerations. Your disagreement with how the Union has chosen to represent the class of employees does not equate to the Union violating its statutory obligation to provide fair representation to the employees it represents. Accordingly, since there is insufficient evidence to establish that the Union violated the Act as alleged or in any other manner encompassed by your charge, I am dismissing this charge.

Charging Party's Right to Appeal: The Charging Party may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: You must file your appeal electronically or provide a written statement explaining why electronic submission is not possible or feasible. Written instructions for the NLRB's E-Filing system and the Terms and Conditions of the NLRB's E-Filing policy are available at www.nlr.gov. See [User Guide](#). A video demonstration which provides [step-by-step instructions](#) and frequently asked questions are also available at www.nlr.gov. If you require additional assistance with E-Filing, please contact e-filing@nlrb.gov.

You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. If you cannot file electronically, please send the appeal and your written explanation of why you cannot file electronically to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

Appeal Due Date: The appeal is due on **June 23, 2022**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than June 22, 2022. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before June 23, 2022**. The request may be filed electronically through the **E-File Documents** link on our website www.nlr.gov, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after June 23, 2022, **even if it is**

postmarked or given to the delivery service before the due date. Unless filed electronically, a copy of the extension of time should also be sent to me.

Confidentiality: We will not honor requests to limit our use of appeal statements or evidence. Upon a request under the Freedom of Information Act (FOIA) by a party during the processing of an appeal, the Agency's FOIA Branch discloses appeal statements, redacted for personal privacy, confidential source protection, or other applicable FOIA exemptions. In the event the appeal is sustained, any statement or material submitted may be introduced as evidence at a hearing before an administrative law judge. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Very truly yours,



Kathy Drew King
Regional Director

Enclosure

cc: (b) (6), (b) (7)(C)
Flushing Workers Center
PO Box 528119
Flushing, NY 11355

George Gresham
1199SEIU United Healthcare Workers
East
498 Seventh Avenue
New York, NY 10018

Laureve Blackstone, Esq.
Levy Ratner, P.C.
80 Eighth Avenue
8th Floor
New York, NY 10011-7175

Kenneth Kirschner, Esq.
Hogan Lovells LLP
390 Madison Avenue
New York, NY 10017

1199 SEIU (Chinese American Planning
Council)
Case 29-CB-293554

- 4 -

(b) (6), (b) (7)(C)

Chinese-American Planning Council
1 York Street
New York, NY 10013

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

APPEAL FORM

To: General Counsel
Attn: Office of Appeals
National Labor Relations Board
1015 Half Street SE
Washington, DC 20570-0001

Date:

Please be advised that an appeal is hereby taken to the General Counsel of the National Labor Relations Board from the action of the Regional Director in refusing to issue a complaint on the charge in

Case Name(s).

Case No(s). *(If more than one case number, include all case numbers in which appeal is taken.)*

(Signature)

E-FILING TO APPEALS

1. **Extension of Time:** This document is used when the Charging Party is asking for more time to efile an Appeal.
 - If an Extension of Time is e-filed, and there are additional documents to be e-filed simultaneously with it, please e-file those documents under the selection **Correspondence**.
 - After an Extension of Time has already been e-filed, any **additional** materials to add to the Extension of Time should be e-filed under **Correspondence**.
2. **File an Appeal:** If the Charging Party does not agree with the Region's decision on the case, an Appeal can be e-filed.
 - Only **one (1) Appeal** can be e-filed to **each** determination in the Region's decision letter that is received.
 - After an Appeal has been e-filed, any **additional** materials to add to the Appeal should be e-filed under **Correspondence**.
3. **Notice of Appearance:** Either party can e-file a Notice of Appearance if there is a new counsel representing one side or a different counsel.
 - This document is only e-filed with the Office of Appeals after a decision has been made by the Region.
 - This document can be e-filed **before** an Appeal is e-filed.
4. **Correspondence:** Parties will **select** Correspondence when adding documents or supplementing the Appeal or Extension of Time.
 - Correspondence is used to e-file documents **after** an **Extension of Time, Appeal or Notice of Appearance** has been e-filed.
5. **Position Statement:** The Charging Party or Charged Party may e-file a Position Statement.
 - The Charging Party will e-file this document as a supplement of the Appeal.
 - The Charged Party will specifically file one to support the Region's decision.
 - This document should be e-filed **after** an **Extension of Time, Appeal or Notice of Appearance** has been e-filed.
6. **Withdrawal Request:** If the Charging Party decides to no longer pursue their appeal, he/she can e-file a Withdrawal Request to the Office of Appeals.
 - This document should be e-Filed **after** an **Extension of Time, Appeal or Notice of Appearance** has been e-filed.



7. The selections of **Evidence** or **Other** should no longer be used.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
Washington, DC 20570

June 24, 2022

(b) (6), (b) (7)(C)

FLUSHING WORKERS CENTER
PO BOX 528119
FLUSHING, NY 11355

Re: 1199 SEIU (Chinese American Planning
Council)
Case 29-CB-293554

Dear (b) (6), (b) (7)(C):

We have received your request for an extension of time to file an appeal. We are granting you an extension only to **July 15, 2022**.

File your Appeal Electronically by July 15, 2022. You must file your appeal electronically via the Agency's website www.nlr.gov and are encouraged to submit a complete statement of the facts and reasons why you believe the Region's decision was incorrect. Remember to allow enough time to complete the electronic filing process by **11:59 pm Eastern Time on July 15, 2022**. Otherwise, your appeal will be late. Instructions on how to file electronically through our e-filing system is on the website.

If Unable to File Electronically, send via Mail by July 14, 2022. If you are unable to file electronically, you must include a written explanation as to why filing electronically was not possible or feasible along with your appeal. These items must be sent through the U.S. mail or by a delivery service **no later than July 14, 2022**, and addressed to the General Counsel, NLRB, Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001. A copy of the appeal should also be sent to the Regional Director. Please note that the date to send your appeal by mail or delivery service is at least one day prior to the appeal due date. This ensures your appeal is timely no matter what date it is received in this office.

Finally, please be advised that we do not accept appeals through fax or e-mail.

Sincerely,

Jennifer A. Abruzzo
General Counsel



By: _____

Mark E. Arbesfeld, Director
Office of Appeals

cc: KATHY DREW-KING
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS
BOARD
TWO METRO TECH CENTER
STE 5100
BROOKLYN, NY 11201-3838

KENNETH KIRSCHNER, ESQ.
HOGAN LOVELLS LLP
390 MADISON AVE
NEW YORK, NY 10017

LAUREVE D. BLACKSTONE, ESQ.
LEVY RATNER, P.C.
80 EIGHTH AVE 8TH FL
NEW YORK, NY 10011-7175

cl



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
Washington, DC 20570

July 15, 2022

(b) (6), (b) (7)(C)

FLUSHING WORKERS CENTER
PO BOX 528119
FLUSHING, NY 11355

Re: 1199 SEIU (Chinese American Planning
Council)
Case 29-CB-293554

Dear (b) (6), (b) (7)(C):

We have received your request for an extension of time to file an appeal. We are granting you an extension to **August 3, 2022. No further extensions will be granted.**

File your Appeal Electronically by August 3, 2022. You must file your appeal electronically via the Agency's website www.nlr.gov and are encouraged to submit a complete statement of the facts and reasons why you believe the Region's decision was incorrect. Remember to allow enough time to complete the electronic filing process by **11:59 pm Eastern Time on August 3, 2022.** Otherwise, your appeal will be late. Instructions on how to file electronically through our e-filing system is on the website.

If Unable to File Electronically, send via Mail by August 2, 2022. If you are unable to file electronically, you must include a written explanation as to why filing electronically was not possible or feasible along with your appeal. These items must be sent through the U.S. mail or by a delivery service **no later than August 2, 2022**, and addressed to the General Counsel, NLRB, Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001. A copy of the appeal should also be sent to the Regional Director. Please note that the date to send your appeal by mail or delivery service is at least one day prior to the appeal due date. This ensures your appeal is timely no matter what date it is received in this office.

Finally, please be advised that we do not accept appeals through fax or e-mail.

Sincerely,

Jennifer A. Abruzzo
General Counsel



By:

Mark E. Arbesfeld, Director
Office of Appeals

cc: KATHY DREW-KING
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS
BOARD
TWO METRO TECH CENTER
STE 5100
BROOKLYN, NY 11201-3838

KENNETH KIRSCHNER, ESQ.
HOGAN LOVELLS LLP
390 MADISON AVE
NEW YORK, NY 10017

LAUREVE D. BLACKSTONE, ESQ.
LEVY RATNER, P.C.
80 EIGHTH AVE 8TH FL
NEW YORK, NY 10011-7175

cl



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
Washington, DC 20570

August 5, 2022

(b) (6), (b) (7)(C)
FLUSHING WORKERS CENTER
PO BOX 528119
FLUSHING, NY 11355

Re: 1199 SEIU (Chinese American Planning
Council)
Case 29-CB-293554

Dear (b) (6), (b) (7)(C):

We have received your timely appeal from the Region's decision in the above-captioned case. We will assign your appeal for processing in accordance with Agency procedures. Please be assured that our review of this matter will include a full analysis of the underlying investigatory file, your appeal, as well as current Board law and processes.

We will notify you and all involved parties of our decision by letter via email as permitted under Section 102.4(c) of the Board's *Rules and Regulations*. If an email address is not available for you, we will provide the decision by mail.

Sincerely,

Jennifer A. Abruzzo
General Counsel

A handwritten signature in black ink that reads "Mark E. Arbesfeld".

By: _____

Mark E. Arbesfeld, Director
Office of Appeals

cc: KATHY DREW-KING
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS
BOARD
TWO METRO TECH CENTER
STE 5100
BROOKLYN, NY 11201-3838

GEORGE GERSHAM
1199SEIU UNITED HEALTHCARE
WORKERS EAST
498 SEVENTH AVE
NEW YORK, NY 10018

LAUREVE D. BLACKSTONE, ESQ.
LEVY RATNER, P.C.
80 EIGHTH AVE 8TH FL
NEW YORK, NY 10011-7175

(b) (6), (b) (7)(C)

CHINESE AMERICAN PLANNING
COUNCIL
1 YORK ST
NEW YORK, NY 10013

KENNETH KIRSCHNER, ESQ.
HOGAN LOVELLS LLP
390 MADISON AVE
NEW YORK, NY 10017

(b) (6), (b) (7)(C)

kh

FORM NLRB-508
(3-21)UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST LABOR ORGANIZATION
OR ITS AGENTS

DO NOT WRITE IN THIS SPACE

Case
29-CB-293575Date Filed
4/5/2022

INSTRUCTIONS: File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. LABOR ORGANIZATION OR ITS AGENTS AGAINST WHICH CHARGE IS BROUGHT			
a. Name 1199SEIU		b. Union Representative to contact George Gresham	
c. Address (Street, city, state, and ZIP code) 498 Seventh Ave. New York, NY 10018		d. Tel. No. 646-473-9200	e. Cell No.
		f. Fax. No.	
		g. e-mail	
h. The above-named labor organization has engaged in and is engaging in unfair labor practices within the meaning of section 8(b) and (list subsections) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.			
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices) See attached sheet.			
3. Name of Employer Chincse-American Planning Council		4a. Tel. No. 212-219-8100	b. Cell No.
		c. Fax No.	
		d. e-mail	
5. Location of plant involved (street, city, state and ZIP code) 1 York Street New York, NY 10013		6. Employer representative to contact (b) (6), (b) (7)(C)	
7. Type of establishment (factory, mine, wholesaler, etc.) home care agency	8. Identify principal product or service home care services		9. Number of workers employed 1000+
10. Full name of party filing charge (b) (6), (b) (7)(C)			
11. Address of party filing charge (street, city, state and ZIP code) (b) (6), (b) (7)(C)		11a. Tel. No.	b. Cell No. (b) (6), (b) (7)(C)
		c. Fax No.	
		d. e-mail	
12. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief. (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) (signature of representative or person making charge) (Print/type name and title or office, if any)			Tel. No.
			Cell No.
			Fax No.
Address (b) (6), (b) (7)(C)			e-mail
			Date 3/27/22

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.

2. Basis of the Charge

[illegible]

(1) failing to challenge the arbitrator's award issued on or about February 25, 2022, that did not provide any relief, financially or in preventing future violation of their rights, when the Union had forced them into mandatory class arbitration that effectively took away their right to assert claims under New York State labor laws that provided fair monetary compensation and deterrence through criminal liability, for arbitrary, discriminatory and incidious reasons, in violation of Section 8(b)(1)(A); and

(2) by engaging in conduct amounting to or had the effect of colluding with 42 homecare agencies/employers in the State of New York to evade monetary and criminal liabilities by these employers' unlawful conduct that violates New York State labor laws and other labor statutes for arbitrary, discriminatory and incidious reasons, in violation of Section 8(b)(1)(A).



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 29
Two Metro Tech Center
Suite 5100
Brooklyn, NY 11201-3838

Agency Website: www.nlr.gov
Telephone: (718)330-7713
Fax: (718)330-7579



Download
NLRB
Mobile App

George Gresham
1199 SEIU
498 Seventh Avenue
New York, NY 10018

April 6, 2022

Re: 1199 SEIU (Chinese-American Planning
Council)
Case 29-CB-293575

Dear Mr. Gresham:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney BRENT E. CHILDERHOSE whose telephone number is (718)765-6187. If this Board agent is not available, you may contact Supervisory Attorney TARA O'ROURKE whose telephone number is (718)765-6213.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not

enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

We will not honor requests to limit our use of position statements or evidence. Specifically, any material you submit may be introduced as evidence at a hearing before an administrative law judge regardless of claims of confidentiality. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Further, the Freedom of Information Act may require that we disclose position statements or evidence in closed cases upon request, unless an exemption applies, such as those protecting confidential financial information or personal privacy interests.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Correspondence: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, www.nlrb.gov. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive

correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. NLRB Form 4541 offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kathy Drew-King", written in a cursive style.

KATHY DREW-KING
Regional Director

Enclosure: Copy of Charge

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

1199 SEIU (CHINESE-AMERICAN PLANNING COUNCIL)

Charged Party

and

(b) (6), (b) (7)(C)

Charging Party

Case 29-CB-293575

AFFIDAVIT OF SERVICE OF CHARGE AGAINST LABOR ORGANIZATION

I, the undersigned employee of the National Labor Relations Board, state under oath that on April 6, 2022, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

George Gresham
1199 SEIU
498 Seventh Avenue
New York, NY 10018

April 6, 2022

Date

FREDA DEVONSHIRE, Designated
Agent of NLRB

Name

/S/ FREDA DEVONSHIRE

Signature



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 29
Two Metro Tech Center
Suite 5100
Brooklyn, NY 11201-3838

Agency Website: www.nlrb.gov
Telephone: (718)330-7713
Fax: (718)330-7579



Download
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(b) (6), (b) (7)(C)

April 6, 2022

Re: 1199 SEIU (Chinese-American Planning
Council)
Case 29-CB-293575

Dear (b) (6), (b) (7)(C)

The charge that you filed in this case on April 05, 2022 has been docketed as case number 29-CB-293575. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney BRENT E. CHILDERHOSE whose telephone number is (718)765-6187. If this Board agent is not available, you may contact Supervisory Attorney TARA O'ROURKE whose telephone number is (718)765-6213.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlrb.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Correspondence: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, www.nlrb.gov. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlrb.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kathy Drew-King". The signature is fluid and cursive, with the first name "Kathy" being more prominent and the last name "Drew-King" following in a similar style.

KATHY DREW-KING
Regional Director



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 29
Two Metro Tech Center
Suite 5100
Brooklyn, NY 11201-3838

Agency Website: www.nlrb.gov
Telephone: (718)330-7713
Fax: (718)330-7579



Download
NLRB
Mobile App

(b) (6), (b) (7)(C)

Chinese-American Planning Council
1 York Street
New York, NY 10013

April 6, 2022

Re: 1199 SEIU (Chinese-American Planning
Council)
Case 29-CB-293575

Dear (b) (6), (b) (7)(C)

Enclosed is a copy of a charge that has been filed in this case. Although this charge is not filed against you, it is necessary for us to obtain information from you to determine whether we have jurisdiction over this case. In the future we may also need to obtain evidence from you concerning the merits of the charge. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney BRENT E. CHILDERHOSE whose telephone number is (718)765-6187. If this Board agent is not available, you may contact Supervisory Attorney TARA O'ROURKE whose telephone number is (718)765-6213.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlrb.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

If, during the investigation of this matter, the Board agent asks for evidence, I strongly urge you or your representative to promptly present all evidence relevant to the investigation. In this way, the case may be fully investigated more quickly.

We will not honor requests to limit our use of position statements or evidence. Specifically, any material you submit may be introduced as evidence at a hearing before an administrative law judge regardless of claims of confidentiality. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Further, the Freedom of Information Act may require that we disclose position statements or evidence in closed cases upon request, unless an exemption applies, such as those protecting confidential financial information or personal privacy interests.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Correspondence: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, www.nlrb.gov. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

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your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlrb.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kathy Drew-King", written in a cursive style.

KATHY DREW-KING
Regional Director

Enclosures

1. Copy of Charge
2. Commerce Questionnaire

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME

CASE NUMBER
29-CB-293575

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

2. TYPE OF ENTITY

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)

3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION
OR FORMATION

B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

7A. PRINCIPAL LOCATION:

7B. BRANCH LOCATIONS:

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. TOTAL:

B. AT THE ADDRESS INVOLVED IN THIS MATTER:

9. DURING THE MOST RECENT (Check the appropriate box): ☐ CALENDAR ☐ 12 MONTHS or ☐ FISCAL YEAR (FY DATES _____)

YES

NO

A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.
\$ _____

B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$ _____

C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$ _____

D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$ _____

E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____

F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____

G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$ _____

H. Gross Revenues from all sales or performance of services (Check the largest amount)

☐ \$100,000 ☐ \$250,000 ☐ \$500,000 ☐ \$1,000,000 or more If less than \$100,000, indicate amount.

I. Did you begin operations within the last 12 months? If yes, specify date: _____

10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group).

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME

TITLE

E-MAIL ADDRESS

TEL. NUMBER

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)

SIGNATURE

E-MAIL ADDRESS

DATE

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

NATIONAL LABOR RELATIONS BOARD
NOTICE OF APPEARANCE

1199SEIU UNITED HEALTHCARE WORKERS EAST,

Union,

and

CHINESE-AMERICAN PLANNING COUNCIL HOME ATTENDANT,

Employer.

CASE 29-CB-293575

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____

1199SEIU United Healthcare Workers East
IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☐ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: Laureve Blackstone

MAILING ADDRESS: Levy Ratner, P.C., 80 Eighth Avenue, 8th Floor, New York, NY 10011-7175

E-MAIL ADDRESS: lblackstone@levyratner.com

OFFICE TELEPHONE NUMBER: (212) 627-8100

CELL PHONE NUMBER: _____ FAX: (212) 627-8182

SIGNATURE: Laureve D. Blackstone

(Please sign in ink.)

DATE: April 20, 2022

¹ IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 29
Two Metro Tech Center
Suite 5100
Brooklyn, NY 11201-3838

Agency Website: www.nlr.gov
Telephone: (718)330-7713
Fax: (718)330-7579

June 9, 2022

(b) (6), (b) (7)(C)

Re: 1199SEIU United Healthcare Workers East
(Chinese-American Planning Council)
Case 29-CB-293575

Dear (b) (6), (b) (7)(C)

We have carefully investigated and considered your charge that 1199SEIU United Healthcare Workers East has violated the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charge for the reasons discussed below.

Your charge alleges that the Union has failed and refused to represent you and other union members by not challenging the February 25, 2022 arbitrator's award for the Union's class-action grievance. Further, you allege the Union's handling of the class action grievance "had the effect of colluding with 42 homecare agencies/employers in the State of New York to evade monetary and criminal liabilities by these employers..." Contrary to what is alleged in your charge, there is insufficient evidence to establish that the Union has failed in its duty to represent you or other employees named in the charge.

Is well established that a Union, as the exclusive representative of bargaining unit employees, has the statutory duty to fairly represent their interests in the processing of grievances. See *Vaca v. Sipes*, 386 U.S. 171 (1967). A breach of this duty occurs when the Union's conduct is based upon arbitrary, invidious, or discriminatory considerations. At the same time, however, unions have broad discretionary power to settle or drop grievances for a multitude of reasons and the duty of fair representation "does not require that every possible option be exercised or that a grievant's case be advocated in a perfect manner." *Truck Drivers, Local Union No. 355*, 229 NLRB 1319, 1321(1977).

Here, the evidence shows that the Union processed a class-action grievance on behalf of approximately 120,000 home healthcare workers which resulted in an arbitrator issuing a decision on February 25, 2022. The arbitrator's decision establishes a fund of approximately \$32 million to pay the wage claims of the employees represented by the Union. Further, the arbitrator's decision establishes a formula to distribute the funds to employees who submit claims. While you have objected to the arbitrator's decision, claiming that it is arbitrary and discriminatory, the Union's assessment is that the decision is fair and reasonable and balances

the various factors related to such a large class action. Contrary to what you have claimed, the arbitrator's award does not arbitrarily distribute funds equally to all employees in the class, but rather compensates employees consistent with a formula that accounts for which employees had worked 24-hour shifts. While you disagree with the Union's assessment that the arbitrator's award is appropriate, there is insufficient evidence that the Union's actions are based on any unlawful considerations. Your disagreement with how the Union has chosen to represent the class of employees does not equate to the Union violating its statutory obligation to provide fair representation to the employees it represents. Accordingly, since there is insufficient evidence to establish that the Union violated the Act as alleged or in any other manner encompassed by your charge, I am dismissing this charge.

Charging Party's Right to Appeal: The Charging Party may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: You must file your appeal electronically or provide a written statement explaining why electronic submission is not possible or feasible. Written instructions for the NLRB's E-Filing system and the Terms and Conditions of the NLRB's E-Filing policy are available at www.nlr.gov. See [User Guide](#). A video demonstration which provides [step-by-step instructions](#) and frequently asked questions are also available at www.nlr.gov. If you require additional assistance with E-Filing, please contact E-Filing@nlrb.gov.

You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. If you cannot file electronically, please send the appeal and your written explanation of why you cannot file electronically to the **General Counsel** at the **National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

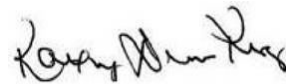
Appeal Due Date: The appeal is due on **June 23, 2022**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than June 22, 2022. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before June 23, 2022**. The request may be filed electronically through the **E-File Documents** link on our website www.nlr.gov, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any

request for an extension of time to file an appeal received after June 23, 2022, **even if it is postmarked or given to the delivery service before the due date.** Unless filed electronically, a copy of the extension of time should also be sent to me.

Confidentiality: We will not honor requests to limit our use of appeal statements or evidence. Upon a request under the Freedom of Information Act (FOIA) by a party during the processing of an appeal, the Agency's FOIA Branch discloses appeal statements, redacted for personal privacy, confidential source protection, or other applicable FOIA exemptions. In the event the appeal is sustained, any statement or material submitted may be introduced as evidence at a hearing before an administrative law judge. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Very truly yours,



Kathy Drew King
Regional Director

Enclosure

cc: (b) (6), (b) (7)(C)
Flushing Workers Center
PO Box 528119
Flushing, NY 11355

George Gresham
1199SEIU United Healthcare Workers
East
498 Seventh Avenue
New York, NY 10018

Laureve Blackstone, Esq.
Levy Ratner, P.C.
80 Eighth Avenue
8th Floor
New York, NY 10011-7175

Kenneth Kirschner, Esq.
Hogan Lovells LLP
390 Madison Avenue
New York, NY 10017

1199SEIU United Healthcare Workers East - 4 -
(Chinese-American Planning Council)
Case 29-CB-293575

(b) (6), (b) (7)(C)

Chinese-American Planning Council
1 York Street
New York, NY 10013

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

APPEAL FORM

To: General Counsel
Attn: Office of Appeals
National Labor Relations Board
1015 Half Street SE
Washington, DC 20570-0001

Date:

Please be advised that an appeal is hereby taken to the General Counsel of the National Labor Relations Board from the action of the Regional Director in refusing to issue a complaint on the charge in

Case Name(s).

Case No(s). *(If more than one case number, include all case numbers in which appeal is taken.)*

(Signature)

E-FILING TO APPEALS

1. **Extension of Time:** This document is used when the Charging Party is asking for more time to efile an Appeal.
 - If an Extension of Time is e-filed, and there are additional documents to be e-filed simultaneously with it, please e-file those documents under the selection **Correspondence**.
 - After an Extension of Time has already been e-filed, any **additional** materials to add to the Extension of Time should be e-filed under **Correspondence**.
2. **File an Appeal:** If the Charging Party does not agree with the Region's decision on the case, an Appeal can be e-filed.
 - Only **one (1) Appeal** can be e-filed to **each** determination in the Region's decision letter that is received.
 - After an Appeal has been e-filed, any **additional** materials to add to the Appeal should be e-filed under **Correspondence**.
3. **Notice of Appearance:** Either party can e-file a Notice of Appearance if there is a new counsel representing one side or a different counsel.
 - This document is only e-filed with the Office of Appeals after a decision has been made by the Region.
 - This document can be e-filed **before** an Appeal is e-filed.
4. **Correspondence:** Parties will **select** Correspondence when adding documents or supplementing the Appeal or Extension of Time.
 - Correspondence is used to e-file documents **after** an **Extension of Time, Appeal or Notice of Appearance** has been e-filed.
5. **Position Statement:** The Charging Party or Charged Party may e-file a Position Statement.
 - The Charging Party will e-file this document as a supplement of the Appeal.
 - The Charged Party will specifically file one to support the Region's decision.
 - This document should be e-filed **after** an **Extension of Time, Appeal or Notice of Appearance** has been e-filed.
6. **Withdrawal Request:** If the Charging Party decides to no longer pursue their appeal, he/she can e-file a Withdrawal Request to the Office of Appeals.
 - This document should be e-Filed **after** an **Extension of Time, Appeal or Notice of Appearance** has been e-filed.



7. The selections of **Evidence** or **Other** should no longer be used.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
Washington, DC 20570

June 24, 2022

(b) (6), (b) (7)(C)

FLUSHING WORKERS CENTER
PO BOX 528119
FLUSHING, NY 11355

Re: 1199SEIU United Healthcare Workers East
(Chinese-American Planning Council)
Case 29-CB-293575

Dear (b) (6), (b) (7)(C):

We have received your request for an extension of time to file an appeal. We are granting you an extension only to **July 15, 2022**.

File your Appeal Electronically by July 15, 2022. You must file your appeal electronically via the Agency's website www.nlrb.gov and are encouraged to submit a complete statement of the facts and reasons why you believe the Region's decision was incorrect. Remember to allow enough time to complete the electronic filing process by **11:59 pm Eastern Time on July 15, 2022**. Otherwise, your appeal will be late. Instructions on how to file electronically through our e-filing system is on the website.

If Unable to File Electronically, send via Mail by July 14, 2022. If you are unable to file electronically, you must include a written explanation as to why filing electronically was not possible or feasible along with your appeal. These items must be sent through the U.S. mail or by a delivery service **no later than July 14, 2022**, and addressed to the General Counsel, NLRB, Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001. A copy of the appeal should also be sent to the Regional Director. Please note that the date to send your appeal by mail or delivery service is at least one day prior to the appeal due date. This ensures your appeal is timely no matter what date it is received in this office.

Finally, please be advised that we do not accept appeals through fax or e-mail.

Sincerely,

Jennifer A. Abruzzo
General Counsel



By:

Mark E. Arbesfeld, Director
Office of Appeals

cc: KATHY DREW-KING
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS
BOARD
TWO METRO TECH CENTER
STE 5100
BROOKLYN, NY 11201-3838

KENNETH KIRSCHNER, ESQ.
HOGAN LOVELLS LLP
390 MADISON AVE
NEW YORK, NY 10017

LAUREVE BLACKSTONE, ESQ.
LEVY RATNER, P.C.
80 EIGHTH AVE 8TH FL
NEW YORK, NY 10011-7175

cl



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
Washington, DC 20570

July 15, 2022

(b) (6), (b) (7)(C)

Flushing Workers Center
PO Box 528119
Flushing, NY 11355

Re: 1199SEIU United Healthcare Workers East
(Chinese-American Planning Council)
Case 29-CB-293575

Dear (b) (6), (b) (7)(C):

We have received your request for an extension of time to file an appeal. We are granting you an extension to **August 3, 2022. No further extensions will be granted.**

File your Appeal Electronically by August 3, 2022. You must file your appeal electronically via the Agency's website www.nlr.gov and are encouraged to submit a complete statement of the facts and reasons why you believe the Region's decision was incorrect. Remember to allow enough time to complete the electronic filing process by **11:59 pm Eastern Time on August 3, 2022.** Otherwise, your appeal will be late. Instructions on how to file electronically through our e-filing system is on the website.

If Unable to File Electronically, send via Mail by August 2, 2022. If you are unable to file electronically, you must include a written explanation as to why filing electronically was not possible or feasible along with your appeal. These items must be sent through the U.S. mail or by a delivery service **no later than August 2, 2022**, and addressed to the General Counsel, NLRB, Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001. A copy of the appeal should also be sent to the Regional Director. Please note that the date to send your appeal by mail or delivery service is at least one day prior to the appeal due date. This ensures your appeal is timely no matter what date it is received in this office.

Finally, please be advised that we do not accept appeals through fax or e-mail.

Sincerely,

Jennifer A. Abruzzo
General Counsel



BY:

Mark E. Arbesfeld, Director
Office of Appeals

Cc: KATHY DREW-KING
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS
BOARD
TWO METRO TECH CENTER
STE 5100
BROOKLYN, NY 11201-3838

KENNETH KIRSCHNER, ESQ.
HOGAN LOVELLS LLP
390 MADISON AVE
NEW YORK, NY 10017

LAUREVE BLACKSTONE, ESQ.
LEVY RATNER, P.C.
80 EIGHTH AVE 8TH FL
NEW YORK, NY 10011-7175

cl



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
Washington, DC 20570

August 4, 2022

(b) (6), (b) (7)(C)
FLUSHING WORKERS CENTER
PO BOX 528119
FLUSHING, NY 11355

Re: 1199SEIU United Healthcare Workers East
(Chinese-American Planning Council)
Case 29-CB-293575

Dear (b) (6), (b) (7)(C):

We have received your timely appeal from the Region's decision in the above-captioned case. We will assign your appeal for processing in accordance with Agency procedures. Please be assured that our review of this matter will include a full analysis of the underlying investigatory file, your appeal, as well as current Board law and processes.

We will notify you and all involved parties of our decision by letter via email as permitted under Section 102.4(c) of the Board's *Rules and Regulations*. If an email address is not available for you, we will provide the decision by mail.

Sincerely,

Jennifer A. Abruzzo
General Counsel

A handwritten signature in black ink, reading "Mark E. Arbesfeld", is positioned above the typed name and title of the Director of Appeals.

By: _____

Mark E. Arbesfeld, Director
Office of Appeals

cc: KATHY DREW-KING, REGIONAL
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vrm